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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

NIKE, INC.,
Plaintiff,
v.
FUJIAN JIALAIMENG SHOES CO., LTD
and
DAEAST-ASIA (FUJIAN) SPORTS
PRODUCTION CO., LTD.,
Defendants.

Case No. 2:17-cv-00516-GMN-GWF

PRELIMINARY INJUNCTION

On February 22, 2017, Plaintiff NIKE, Inc. moved *ex parte* for a Temporary Restraining Order, Seizure Order, and an Order for Preliminary Injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, Lanham Act Section 34 (15 U.S.C. § 1116), the Patent Act, 35

1 U.S.C. § 283, and Local Rule 7-4. (ECF Nos. 3, 4). NIKE alleged that Defendants Fujian
2 Jialaimeng Shoes Co., Ltd. and Daeast-Asia (Fujian) Sports Production Co., Ltd. (collectively,
3 hereafter “Jialaimeng”) have made, imported into the United States, sold, offered to sell,
4 distributed, promoted, and/or advertised at the WSA@Magic (“WSA”) trade show in Las Vegas,
5 Nevada, numerous shoes that infringe U.S. Patent Nos. D659,967; D666,404; D666,405;
6 D666,406; D683,119; D711,081; D723,772; and D725,356 (the “NIKE PI Design Patents”)
7 and/or the trademarks represented in U.S. Trademark Registration Nos. 977,190; 1,323,342; and
8 1,323,343 (the “NIKE PI Trademarks”).

9 On February 22, 2017, the Court granted NIKE’s Motion for Entry of a Temporary
10 Restraining Order and Seizure Order. (ECF No. 10). Thereafter, NIKE deposited \$25,000 with
11 the Court as security for the injunction (ECF No. 13); caused the Complaint, motion papers, and
12 the Court’s Order to be personally served on Jialaimeng’s Vice President of Business at its booth
13 at the WSA show; and seized evidence of infringements from Jialaimeng’s booth at the WSA
14 show. (ECF No. 14). In addition to shoes, the seized evidence includes items in which
15 Jialaimeng documented its importation, distribution, and offers to sell shoes, such as a laptop,
16 multiple iPhones, an iPad, and multiple spiral notebooks. (ECF No. 14).

17 The Court directed Jialaimeng to file and serve an opposition to NIKE’s motion for a
18 preliminary injunction by February 28, 2017, and to appear for a preliminary injunction hearing
19 on March 3, 2017. (ECF No. 10). Jialaimeng did not file or serve an opposition.

20 The Court, having duly considered NIKE’s arguments, as well as NIKE’s Complaint,
21 NIKE’s Emergency Motion for *Ex Parte* Temporary Restraining Order, Seizure Order, and
22 Preliminary Injunction, the declaration and exhibits submitted therewith, NIKE’s reply brief in
23 support of its motion, and Jialaimeng’s failure to file an opposition, hereby makes the following
24 findings and conclusions:

25 1. NIKE is likely to succeed on the merits of its patent and trademark infringement
26 claims. NIKE is likely to succeed in showing that the NIKE PI Design Patents and NIKE PI
27 Trademarks are owned by NIKE, are valid, and are enforceable, and that Jialaimeng has
28 imported into the United States, sold, offered to sell, distributed, promoted, and/or advertised

1 shoes bearing designs that infringe the NIKE PI Design Patents and NIKE PI Trademarks (the
2 “PI Infringements”). The NIKE PI Design Patents are presumed valid, 35 U.S.C. § 282, and the
3 NIKE PI Trademarks have achieved incontestable status. 15 U.S.C. § 1065.

4 2. Jialaimeng has not regularly or consistently identified its PI Infringements with
5 distinguishing model numbers. Nevertheless, at WSA, Jialaimeng used at least the following
6 model numbers for its PI Infringements: 605244, 605272, 605126, 605184, 60592, and 605397.

7 3. Jialaimeng is a China-based manufacturer of footwear products that, with the
8 exception of its temporary presence in Las Vegas during the biannual WSA show, does not have
9 a regular place of business or assets in the United States. Further, over the past year, Jialaimeng
10 has established a pattern of importing into the U.S., promoting, selling, and/or offering to sell
11 infringing shoe designs at the WSA show, ignoring NIKE’s cease and desist communications,
12 and then promptly leaving the United States.

13 4. Absent a preliminary injunction pending trial on the merits, Jialaimeng’s
14 manufacture, use, sales, offers to sell, and/or importation into the United States of PI
15 Infringements is likely to result in immediate and irreparable injury to NIKE in the form of loss
16 of control over its valuable intellectual property rights, loss of consumer goodwill, and
17 interference with NIKE’s ability to exploit the NIKE PI Design Patents and NIKE PI
18 Trademarks. *See, e.g., NIKE, Inc. v. Fujian Bestwinn (China) Industry Co.*, No. 2:16-CV-00311-
19 APG, ECF No. 21 (D. Nev. Feb. 29, 2016); *NIKE, Inc. v. QiLoo Int’l Ltd.*, No. 2:12-CV-00191-
20 GMN, ECF No. 29 (D. Nev. Mar. 22, 2012); *NIKE, Inc. v. Meitac Int’l*, No. 2:06-CV-00934-
21 PMP-PA, 2006 WL 3883278 (D. Nev. Oct. 11, 2006). In addition, because Jialaimeng has no
22 presence in the United States, NIKE is likely to suffer irreparable harm because it may be
23 difficult or impossible for it to recover a money judgment against Jialaimeng. *Id.*

24 5. The harm to NIKE in denying a preliminary injunction outweighs the harm to the
25 legitimate interests of Jialaimeng from granting such relief. Here, Jialaimeng’s pattern of
26 entering the United States for purposes of selling its PI Infringements for a period of just a few
27 days once every six months has hamstrung NIKE’s ability to effectively enforce its patent rights.
28 *Bestwinn*, No. 2:16-CV-00311-APG, at ECF No. 21; *QiLoo*, No. 2:12-CV-00191-GMN, at ECF

1 No. 29; *Meitac*, 2006 WL 3883278, at *3 (if defendant is not enjoined, “Nike will be severely
2 handicapped in its ability to prevent further importation of infringing products, thereby
3 destroying any potential of preserving the status quo pending a resolution of this case on its
4 merits”). On the other hand, Jialaimeng has many non-infringing footwear designs it could sell
5 instead of the PI Infringements. In view of the foregoing facts, Jialaimeng took a calculated risk
6 by returning to the United States to continue selling its PI Infringements and the balance of
7 harms tips in NIKE’s favor.

8 6. The public interest weighs in favor of granting NIKE a preliminary injunction
9 because this relief will promote an intellectual property system where rights can be effectively
10 enforced and will protect the public from consumer confusion. *Bestwinn*, No. 2:16-CV-00311-
11 APG, at ECF No. 21; *QiLoo*, No. 2:12-CV-00191-GMN, at ECF No. 29; *Meitac*, 2006 WL
12 3883278, at *3. Any other result – particularly in view of Jialaimeng’s failure to oppose this
13 motion – would undermine the public’s interest in NIKE’s continued incentives to create and
14 invest in the manufacture of ornamental footwear designs.

15 7. In view of the \$25,000 security deposit posted by NIKE, the Court finds that no
16 additional security is required.

17 **PRELIMINARY INJUNCTION**

18 **IT IS THEREFORE ORDERED** that Jialaimeng and its officers, agents, servants,
19 employees, and attorneys; and all other persons acting in active concert or participation with any
20 of them, are hereby preliminarily enjoined from making, using, selling, offering to sell, and/or
21 importing into the United States any and all products bearing the designs, and colorable
22 imitations thereof, shown in NIKE’s United States Design Patent Nos. D659,967; D666,404;
23 D666,405; D666,406; D683,119; D711,081; D723,772; and D725,356. Jialaimeng is further
24 preliminarily enjoined from using in commerce any reproduction, counterfeit, copy, or colorable
25 imitation of the trademarks shown in NIKE’s United States Trademark Registration Nos.
26 977,190; 1,323,342; and 1,323,343, including selling, offering for sale, distributing, promoting,
27 or advertising goods or services in connection with the NIKE PI Trademarks or colorable
28 imitations thereof; and transferring, moving, returning, destroying, or otherwise disposing of any

1 PI Infringements except pursuant to an order of this Court.

2 Illustrative examples of Jialaimeng's infringing shoes bearing model numbers 605244,
3 605272, 605126, 605184, 60592, and 605397 are shown in Appendix 1 to this Order. The scope
4 of this injunction applies to all products bearing the designs of the design patents and trademarks
5 listed above, including colorable imitations thereof, regardless of any model number associated
6 with the product, or any variations in color, materials, or construction methods.

7 NIKE shall forthwith serve this Order upon Jialaimeng by email to
8 jlm2005@jlmshoes.com; myronho@vip.163.com; sales22@wanleeshoes.com;
9 jlm2008@jlmshoes.com; jlm2000@jlmshoes.com; and master@jlmshoes.com. Jialaimeng is
10 hereby given further notice that it shall be deemed to have actual notice of the issuance and terms
11 of this preliminary injunction and that any act by it in violation of any of the terms hereof may be
12 considered and prosecuted as contempt of this Court.

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16 SIGNED AND ENTERED this 3 day of March, 2017 at 9:18 AM

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20 Gloria M. Navarro
21 United States District Judge
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<u>Representative Images</u>	<u>Model No.</u>
	Model No. 605397
	
	
	Model No. 605184

<u>Representative Images</u>	<u>Model No.</u>
	Model No. 605126
	Model No.: Unknown

<u>Representative Images</u>	<u>Model No.</u>
 	<p>Model No.: 605272</p>
 	<p>Model No.: 605272</p>

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Appendix 1

<u>Representative Images</u>	<u>Model No.</u>
 	<p>Model No.: 605244</p>
 	<p>Model No.: 605244</p>

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Appendix 1

<u>Representative Images</u>	<u>Model No.</u>
 	<p>Model No.: 605244</p>
 	<p>Model No.: 60592</p>

<u>Representative Images</u>	<u>Model No.</u>
 	<p>Model No.: 60592</p>
 	<p>Model No.: 60592</p>